IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.3172 OF 2005

IN

APPEAL (L) NO.1032 OF 2005

...

Chaksu Sahakari Kriya
Vikriya Samiti Ltd. ...Appellant

v/s.

Gyanchand Bhanwarlal Jain ...Respondent

...

Mr.R.L.Majgaonkar for the Appellant.

None for the Respondent.

...

CORAM: D.K.DESHMUKH &
J.H.BHATIA, JJ.

DATED: 19TH JULY, 2007

P.C.:

1. This Notice of Motion is taken out by the Appellant for condonation of delay of 745 days in filing this Appeal.

2. The Appeal is directed against the order passed by the learned single Judge of this court dated 7th October, 2003 in Suit No.768 of 1996. The matter was placed before the learned single Judge for passing exparte decree because the Defendant has not filed any written statement. On that date the Defendant appeared before the court and made an oral application for time to file the written statement. No reason was given why written statement was not so far filed. The court, therefore, rejected the application and passed exparte decree by order dated 7th October, 2003. This Appeal is filed in September, 2005. The only reason given in the application for condonation of delay for not filing the Appeal for about two years is that the Appellant has its office in Rajasthan, the Manager was transferred and new Manager was appointed and the new

Manager had no knowledge of the legal proceeding.

3. What was the name of the previous Manager, why he was transferred, who was the new Manager, all these things are within the special knowledge of the Appellant. Therefore, it was for the Appellant to give particulars. No particulars are given and therefore the reason given for condonation of delay can by no stretch of imagination be termed as sufficient cause. Delay cannot be condoned. Motion disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)